

1           **(4z) WATER MANAGEMENT AND REGULATION; ASSESSMENT OF CUMULATIVE IMPACTS.**

2           (a) The parties in cooperation with the provinces shall collectively conduct within  
3           the basin, on a lake watershed and St. Lawrence River basin basis, a periodic  
4           assessment of the cumulative impacts of withdrawals, diversions, and consumptive  
5           uses from the waters of the basin, every 5 years or each time the incremental basin  
6           water losses reach 50,000,000 gallons per day average in any 90-day period in excess  
7           of the quantity at the time of the most recent assessment, whichever comes first, or  
8           at the request of one or more of the parties. The assessment shall form the basis for  
9           a review of the standard of review and decision, council and party regulations, and  
10          their application. This assessment shall:

11                1. Utilize the most current and appropriate guidelines for such a review, which  
12                may include but not be limited to council on environmental quality and environment  
13                Canada guidelines;

14                2. Give substantive consideration to climate change or other significant threats  
15                to basin waters and take into account the current state of scientific knowledge, or  
16                uncertainty, and appropriate measures to exercise caution in cases of uncertainty if  
17                serious damage may result; and

18                3. Consider adaptive management principles and approaches, recognizing,  
19                considering, and providing adjustments for the uncertainties in, and evolution of,  
20                science concerning the basin's water resources, watersheds, and ecosystems,  
21                including potential changes to basin-wide processes, such as lake level cycles and  
22                climate.

23           (b) The parties have the responsibility of conducting this cumulative impact  
24           assessment. Applicants are not required to participate in this assessment.

1 (c) Unless required by other statutes, applicants are not required to conduct a  
2 separate cumulative impact assessment in connection with an application but shall  
3 submit information about the potential impacts of a proposal to the quantity or  
4 quality of the waters and water dependent natural resources of the applicable source  
5 watershed. An applicant may, however, provide an analysis of how the applicant's  
6 proposal meets the no significant adverse cumulative impact provision of the  
7 standard of review and decision.

8 **(5) CONSULTATION WITH TRIBES.** (a) In addition to all other opportunities to  
9 comment pursuant to sub. (6) (b), appropriate consultations shall occur with  
10 federally recognized tribes in the originating party for all proposals subject to council  
11 or regional review pursuant to this compact. Such consultations shall be organized  
12 in the manner suitable to the individual proposal and the laws and policies of the  
13 originating party.

14 (b) All federally recognized tribes within the basin shall receive reasonable  
15 notice indicating that they have an opportunity to comment in writing to the council  
16 or the regional body, or both, and other relevant organizations on whether the  
17 proposal meets the requirements of the standard of review and decision when a  
18 proposal is subject to regional review or council approval. Any notice from the council  
19 shall inform the tribes of any meeting or hearing that is to be held under sub. (6) (b)  
20 and invite them to attend. The parties and the council shall consider the comments  
21 received under this subsection before approving, approving with modifications, or  
22 disapproving any proposal subject to council or regional review.

23 (c) In addition to the specific consultation mechanisms described above, the  
24 council shall seek to establish mutually agreed upon mechanisms or processes to  
25 facilitate dialogue with, and input from, federally recognized tribes on matters to be

1       dealt with by the council; and the council shall seek to establish mechanisms and  
2       processes with federally recognized tribes designed to facilitate ongoing scientific  
3       and technical interaction and data exchange regarding matters falling within the  
4       scope of this compact. This may include participation of tribal representatives on  
5       advisory committees established under this compact or such other processes that are  
6       mutually agreed upon with federally recognized tribes individually or through duly  
7       authorized intertribal agencies or bodies.

8               **(6) PUBLIC PARTICIPATION.** (a) *Meetings, public hearings, and records.* 1. The  
9       parties recognize the importance and necessity of public participation in promoting  
10      management of the water resources of the basin. Consequently, all meetings of the  
11      council shall be open to the public, except with respect to issues of personnel.

12             2. The minutes of the council shall be a public record open to inspection at its  
13      offices during regular business hours.

14             (b) *Public participation.* It is the intent of the council to conduct public  
15      participation processes concurrently and jointly with processes undertaken by the  
16      parties and through regional review. To ensure adequate public participation, each  
17      party or the council shall ensure procedures for the review of proposals subject to the  
18      standard of review and decision consistent with the following requirements:

19             1. Provide public notification of receipt of all applications and a reasonable  
20      opportunity for the public to submit comments before applications are acted upon.

21             2. Assure public accessibility to all documents relevant to an application,  
22      including public comment received.

23             3. Provide guidance on standards for determining whether to conduct a public  
24      meeting or hearing for an application, time and place of such a meeting or hearing,  
25      and procedures for conducting of the same.

1           4. Provide the record of decision for public inspection including comments,  
2           objections, responses, and approvals, approvals with conditions, and disapprovals.

3           **(7)** DISPUTE RESOLUTION AND ENFORCEMENT; GOOD FAITH IMPLEMENTATION. Each  
4           of the parties pledges to support implementation of all provisions of this compact,  
5           and covenants that its officers and agencies shall not hinder, impair, or prevent any  
6           other party carrying out any provision of this compact.

7           **(7g)** DISPUTE RESOLUTION AND ENFORCEMENT; ALTERNATIVE DISPUTE RESOLUTION.  
8           (a) Desiring that this compact be carried out in full, the parties agree that disputes  
9           between the parties regarding interpretation, application, and implementation of  
10          this compact shall be settled by alternative dispute resolution.

11          (b) The council, in consultation with the provinces, shall provide by rule  
12          procedures for the resolution of disputes pursuant to this subsection.

13          **(7r)** DISPUTE RESOLUTION AND ENFORCEMENT; ENFORCEMENT. (a) Any person  
14          aggrieved by any action taken by the council pursuant to the authorities contained  
15          in this compact shall be entitled to a hearing before the council. Any person  
16          aggrieved by a party action shall be entitled to a hearing pursuant to the relevant  
17          party's administrative procedures and laws. After exhaustion of such  
18          administrative remedies, any aggrieved person shall have the right to judicial review  
19          of a council action in the United States district court for the District of Columbia or  
20          the district court in which the council maintains offices, provided such action is  
21          commenced within 90 days; and any aggrieved person shall have the right to judicial  
22          review of a party's action in the relevant party's court of competent jurisdiction,  
23          provided that an action or proceeding for such review is commenced within the time  
24          frames provided for by the party's law. For the purposes of this paragraph, a state

1 or province is deemed to be an aggrieved person with respect to any party action  
2 pursuant to this compact.

3 (b) 1. Any party or the council may initiate actions to compel compliance with  
4 the provisions of this compact, and the rules and regulations promulgated hereunder  
5 by the council. Jurisdiction over such actions is granted to the court of the relevant  
6 party, as well as the United States district court for the District of Columbia and the  
7 district court in which the council maintains offices. The remedies available to any  
8 such court shall include, but not be limited to, equitable relief and civil penalties.

9 2. Each party may issue orders within its respective jurisdiction and may  
10 initiate actions to compel compliance with the provisions of its respective statutes  
11 and regulations adopted to implement the authorities contemplated by this compact  
12 in accordance with the provisions of the laws adopted in each party's jurisdiction.

13 (c) 1. Any aggrieved person, party, or the council may commence a civil action  
14 in the relevant party's courts and administrative systems to compel any person to  
15 comply with this compact should any such person, without approval having been  
16 given, undertake a new or increased withdrawal, consumptive use, or diversion that  
17 is prohibited or subject to approval pursuant to this compact.

18 2. No action under this paragraph may be commenced if:

19 a. The originating party or council approval for the new or increased  
20 withdrawal, consumptive use, or diversion has been granted; or

21 b. The originating party or council has found that the new or increased  
22 withdrawal, consumptive use, or diversion is not subject to approval pursuant to this  
23 compact.

24 3. No action under this paragraph may be commenced unless:

1           a. A person commencing such action has first given 60 days prior notice to the  
2           originating party, the council, and person alleged to be in noncompliance; and

3           b. Neither the originating party nor the council has commenced and is  
4           diligently prosecuting appropriate enforcement actions to compel compliance with  
5           this compact.

6           (d) The available remedies shall include equitable relief, and the prevailing or  
7           substantially prevailing party may recover the costs of litigation, including  
8           reasonable attorney and expert witness fees, whenever the court determines that  
9           such an award is appropriate.

10          (e) Each of the parties may adopt provisions providing additional enforcement  
11          mechanisms and remedies including equitable relief and civil penalties applicable  
12          within its jurisdiction to assist in the implementation of this compact.

13          **(8) ADDITIONAL PROVISIONS.** (a) *Effect on existing rights.* 1. Nothing in this  
14          compact shall be construed to affect, limit, diminish, or impair any rights validly  
15          established and existing as of the effective date of this compact under state or federal  
16          law governing the withdrawal of waters of the basin.

17          2. Nothing contained in this compact shall be construed as affecting or  
18          intending to affect or in any way to interfere with the law of the respective parties  
19          relating to common law water rights.

20          3. Nothing in this compact is intended to abrogate or derogate from treaty  
21          rights or rights held by any tribe recognized by the federal government of the United  
22          States based upon its status as a tribe recognized by the federal government of the  
23          United States.

24          4. An approval by a party or the council under this compact does not give any  
25          property rights, nor any exclusive privileges, nor shall it be construed to grant or

1 confer any right, title, easement, or interest in, to, or over any land belonging to or  
2 held in trust by a party; neither does it authorize any injury to private property or  
3 invasion of private rights, nor infringement of federal, state, or local laws or  
4 regulations; nor does it obviate the necessity of obtaining federal assent when  
5 necessary.

6 (b) *Relationship to agreements concluded by the United States of America.* 1.  
7 Nothing in this compact is intended to provide nor shall be construed to provide,  
8 directly or indirectly, to any person any right, claim, or remedy under any treaty or  
9 international agreement nor is it intended to derogate any right, claim, or remedy  
10 that already exists under any treaty or international agreement.

11 2. Nothing in this compact is intended to infringe nor shall be construed to  
12 infringe upon the treaty power of the United States of America, nor shall any term  
13 hereof be construed to alter or amend any treaty or term thereof that has been or may  
14 hereafter be executed by the United States of America.

15 3. Nothing in this compact is intended to affect nor shall be construed to affect  
16 the application of the Boundary Waters Treaty of 1909 whose requirements continue  
17 to apply in addition to the requirements of this compact.

18 (c) *Confidentiality.* 1. Nothing in this compact requires a party to breach  
19 confidentiality obligations or requirements prohibiting disclosure or to compromise  
20 security of commercially sensitive or proprietary information.

21 2. A party may take measures, including but not limited to deletion and  
22 redaction, deemed necessary to protect any confidential, proprietary, or  
23 commercially sensitive information when distributing information to other parties.  
24 The party shall summarize or paraphrase any such information in a manner  
25 sufficient for the council to exercise its authorities contained in this compact.

1           (d) *Additional laws.* Nothing in this compact shall be construed to repeal,  
2       modify, or qualify the authority of any party to enact any legislation or enforce any  
3       additional conditions and restrictions regarding the management and regulation of  
4       waters within its jurisdiction.

5           (e) *Amendments and supplements.* The provisions of this compact shall remain  
6       in full force and effect until amended by action of the governing bodies of the parties  
7       and consented to and approved by any other necessary authority in the same manner  
8       as this compact is required to be ratified to become effective.

9           (f) *Severability.* Should a court of competent jurisdiction hold any part of this  
10      compact to be void or unenforceable, it shall be considered severable from those  
11      portions of the compact capable of continued implementation in the absence of the  
12      voided provisions. All other provisions capable of continued implementation shall  
13      continue in full force and effect.

14          (g) *Duration of compact and termination.* 1. Once effective, the compact shall  
15      continue in force and remain binding upon each and every party unless terminated.

16          2. This compact may be terminated at any time by a majority vote of the parties.  
17      In the event of such termination, all rights established under it shall continue  
18      unimpaired.

19          (9) **EFFECTUATION.** (b) *Effectuation by chief executive.* The governor is  
20      authorized to take such action as may be necessary and proper in his or her discretion  
21      to effectuate the compact and the initial organization and operation thereunder,  
22      consistent with s. 281.346.

23          (c) *Entire agreement.* The parties consider this compact to be complete and an  
24      integral whole. Each provision of this compact is considered material to the entire  
25      compact, and failure to implement or adhere to any provision may be considered a



1 material breach. Unless otherwise noted in this compact, any change or amendment  
2 made to the compact by any party in its implementing legislation or by the U.S.  
3 Congress when giving its consent to this compact is not considered effective unless  
4 concurred in by all parties.

5 (d) *Effective date and execution.* This compact shall become binding and  
6 effective when ratified through concurring legislation by the states of Illinois,  
7 Indiana, Michigan, Minnesota, New York, Ohio, and Wisconsin and the  
8 Commonwealth of Pennsylvania and consented to by the U.S. Congress.

9 **SECTION 17.** 281.344 of the statutes is created to read:

10 **281.344 Water conservation, reporting, and supply regulation; when**  
11 **compact is not in effect. (1) DEFINITIONS.** In this section:

12 (d) “Community within a straddling county” means any city, village, or town  
13 that is not a straddling community and that is located outside the Great Lakes basin  
14 but wholly within a county that lies partly within the Great Lakes basin.

15 (dm) “Compact” means the Great Lakes—St. Lawrence River Basin Water  
16 Resources Compact under s. 281.343.

17 (dr) “Compact’s effective date” means the effective date of the compact under  
18 s. 281.343 (9) (d).

19 (e) “Consumptive use” means a use of water that results in the loss of or failure  
20 to return some or all of the water to the basin from which the water is withdrawn due  
21 to evaporation, incorporation into products, or other processes.

22 (g) “Cumulative impacts” means the impacts on the Great Lakes basin  
23 ecosystem that result from incremental effects of all aspects of a withdrawal,  
24 interbasin transfer, or consumptive use in addition to other past, present, and  
25 reasonably foreseeable future withdrawals, interbasin transfers, and consumptive

1 uses regardless of who undertakes the other withdrawals, interbasin transfers, and  
2 consumptive uses, including individually minor but collectively significant  
3 withdrawals, interbasin transfers, and consumptive uses taking place over a period  
4 of time.

5 (i) “Environmentally sound and economically feasible water conservation  
6 measures” means those measures, methods, or technologies for efficient water use  
7 and for reducing water loss and waste or for reducing the amount of a withdrawal,  
8 consumptive use, or interbasin transfer that are, taking into account environmental  
9 impact, the age and nature of equipment and facilities involved, the processes  
10 employed, the energy impacts, and other appropriate factors, all of the following:

- 11 1. Environmentally sound.
- 12 2. Reflective of best practices applicable to the water use sector.
- 13 3. Technically feasible and available.
- 14 4. Economically feasible and cost-effective based on an analysis that considers  
15 direct and avoided economic and environmental costs.

16 (j) “Facility” means an operating plant or establishment providing electricity  
17 to the public or carrying on any manufacturing activity, trade, or business on one site,  
18 including similar plants or establishments under common ownership or control  
19 located on contiguous properties.

20 (je) “Great Lakes basin” means the watershed of the Great Lakes and the St.  
21 Lawrence River upstream from Trois—Rivieres, Quebec.

22 (ji) “Great Lakes basin ecosystem” means the interacting components of air,  
23 land, water, and living organisms, including humans, within the Great Lakes basin.

24 (k) “Interbasin transfer” means a transfer of water from the Great Lakes basin  
25 into a watershed outside of the Great Lakes basin or from the watershed of one of the

1 Great Lakes into that of another, except that “interbasin transfer” does not include  
2 any of the following:

3 1. The transfer of a product produced in the Great Lakes basin or in the  
4 watershed of one of the Great Lakes, using waters of the Great Lakes basin, out of  
5 the Great Lakes basin or out of that watershed.

6 2. The transmission of water within a line that extends outside the Great Lakes  
7 basin as it conveys water from one point to another within the Great Lakes basin if  
8 no water is used outside the Great Lakes basin.

9 3. The transfer of bottled water from the Great Lakes basin in containers of  
10 5.7 gallons or less.

11 (km) “Intrabasin transfer” means the transfer of water from the watershed of  
12 one of the Great Lakes into the watershed of another of the Great Lakes.

13 (o) “Product” means something produced by human or mechanical effort or  
14 through agricultural processes and used in manufacturing, commercial, or other  
15 processes or intended for intermediate or ultimate consumers, subject to all of the  
16 following:

17 1. Water used as part of the packaging of a product is part of the product.

18 2. Other than water used as part of the packaging of a product, water that is  
19 used primarily to transport materials in or out of the Great Lakes basin is not a  
20 product or part of a product.

21 3. Except as provided in subd. 1., water that is transferred as part of a public  
22 or private supply is not a product or part of a product.

23 4. Water in its natural state, such as in lakes, rivers, reservoirs, aquifers, or  
24 water basins, is not a product.

1           (pm) “Public water supply” means water distributed to the public through a  
2           physically connected system of treatment, storage, and distribution facilities that  
3           serve a group of largely residential customers and that may also serve industrial,  
4           commercial, and other institutional customers.

5           (ps) “Reasonable water supply alternative” means a water supply alternative  
6           that is similar in cost to, and as environmentally sustainable and protective of public  
7           health as, the proposed new or increased interbasin transfer and that does not have  
8           greater adverse environmental impacts than the proposed new or increased  
9           interbasin transfer.

10          (q) “Regional body” means the body consisting of the governors of Illinois,  
11          Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin and  
12          the premiers of Ontario and Quebec, Canada, or their designees, as established by  
13          the Great Lakes—St. Lawrence River Basin Sustainable Water Resources  
14          Agreement.

15          (r) “Source watershed” means the watershed from which a withdrawal  
16          originates. If water is withdrawn directly from a Great Lake or from the St.  
17          Lawrence River, then the source watershed is the watershed of that Great Lake or  
18          the watershed of the St. Lawrence River, respectively. If water is withdrawn from  
19          the watershed of a stream that is a direct tributary to a Great Lake or a direct  
20          tributary to the St. Lawrence River, then the source watershed is the watershed of  
21          that Great Lake or the watershed of the St. Lawrence River, respectively.

22          (t) “Straddling community” means any city, village, or town that is partly  
23          within the Great Lakes basin or partly within the watersheds of 2 of the Great Lakes  
24          and that is wholly within any county that lies partly or completely within the Great  
25          Lakes basin.

1           (tm) “Straddling county” means a county that lies partly within the Great  
2       Lakes basin.

3           (w) “Water dependent natural resources” means the interacting components of  
4       land, water, and living organisms affected by the waters of the Great Lakes basin.

5           (wm) “Water loss” means the amount of water that is withheld from or not  
6       returned to the basin from which it is withdrawn as a result of an interbasin transfer  
7       or consumptive use or both.

8           (wp) “Water supply system,” when not preceded by “public,” means one of the  
9       following:

10           1. Except as provided in subd. 2., the equipment handling water from the point  
11       of intake of the water to the first point at which the water is used.

12           2. For a system for providing a public water supply, the equipment from the  
13       point of intake of the water to first point at which the water is distributed.

14           (wr) “Water utility” means a public utility, as defined in s. 196.01 (5), that  
15       furnishes water.

16           (x) “Waters of the Great Lakes basin” means the Great Lakes and all streams,  
17       rivers, lakes, connecting channels, and other bodies of water, including tributary  
18       groundwater, within the Great Lakes basin.

19           (y) “Withdraw” means to take water from surface water or groundwater.

20           (z) “Withdrawal” means the taking of water from surface water or groundwater,  
21       including the taking of surface water or groundwater for the purpose of bottling the  
22       water.

23           (zm) “Without adequate supplies of potable water” means without a water  
24       supply that is economically and environmentally sustainable in the long term to  
25       meet reasonable demands for a water supply in the quantity and quality that

1 complies with applicable drinking water standards, is protective of public health, is  
2 available at a reasonable cost, and does not have adverse environmental impacts  
3 greater than those likely to result from the proposed new or increased interbasin  
4 transfer.

5       **(2) DETERMINATIONS CONCERNING APPLICABILITY OF REQUIREMENTS.** (a) *Use of*  
6 *surface water divide.* For the purposes of this section, the surface water divide is used  
7 to determine whether a withdrawal or transfer of surface water or groundwater is  
8 from the Great Lakes basin.

9       (b) *Transfers and withdrawals from more than one source.* For the purposes  
10 of this section, the interbasin transfer or withdrawal of water from more than one  
11 source within the Great Lakes basin to supply a single facility or public water supply  
12 system is considered one interbasin transfer or withdrawal.

13       (c) *Water loss.* The department shall promulgate rules for determining the  
14 amount of water loss from consumptive uses.

15       (d) *County boundaries.* For the purposes of sub. (1) (d), (t), and (tm), a county's  
16 boundaries as of December 13, 2005, shall be used to determine whether a county lies  
17 partly within the Great Lakes basin.

18       (e) *Public trust doctrine.* Nothing in this section may be interpreted to change  
19 the application of the public trust doctrine under article IX, section 1, of the  
20 Wisconsin Constitution or to create any new public trust rights.

21       (f) *Water resources protection act.* 1. In this paragraph, "historic" means made  
22 before the effective date of this subdivision .... [revisor inserts date].

23       2. The department may not change its historic interpretation or application of  
24 42 USC 1962d-20 (d) to a public water supply for a community in this state until that

1 provision is amended. The department shall evaluate all applications under sub. (4)

2 (b) using the requirements in sub. (4) and shall apply those requirements uniformly.

3 (3) STATEWIDE REGISTRATION AND REPORTING. (a) 1. Any person who, on the first  
4 day of the 36th month beginning after the effective date of this subdivision ....  
5 [revisor inserts date], has a water supply system with the capacity to make a  
6 withdrawal from the waters of the state averaging 100,000 gallons per day or more  
7 in any 30-day period or is making any interbasin transfer shall register the  
8 withdrawal or interbasin transfer with the department by the deadline specified by  
9 the department by rule. A person may register a withdrawal or interbasin transfer  
10 before the first day of the 36th month beginning after the effective date of this  
11 subdivision .... [revisor inserts date].

12 2. Any person who, after the first day of the 36th month beginning after the  
13 effective date of this subdivision .... [revisor inserts date], proposes to begin a  
14 withdrawal from the waters of the state using a water supply system that will have  
15 the capacity to withdraw an average of 100,000 gallons per day or more in any 30-day  
16 period, to increase the capacity of a water supply system that existed on the first day  
17 of the 36th month beginning after the effective date of this subdivision .... [revisor  
18 inserts date], so that it will have the capacity to withdraw an average of 100,000  
19 gallons per day or more in any 30-day period, or to begin an interbasin transfer shall  
20 register the withdrawal or interbasin transfer with the department.

21 (b) A person to whom par. (a) applies shall register on a form prescribed by the  
22 department and provide all of the following information:

23 1. The name and address of the registrant and the date of registration.

24 2. The locations and sources of the withdrawal or interbasin transfer.

1           3. The daily capacity of the withdrawal or interbasin transfer and the daily  
2 capacity to withdraw or transfer from each source.

3           4. An estimate of the volume of the withdrawal or interbasin transfer in terms  
4 of gallons per day average in any 30-day period.

5           4m. For a withdrawal from the Great Lakes basin that averages 100,000  
6 gallons per day or more in any 30 day period, an estimate of the maximum hydraulic  
7 capacity of the most restrictive component in each water supply system used for the  
8 withdrawal.

9           5. The uses made of the water.

10          6. The places at which the water is used.

11          7. The places at which any of the water is discharged.

12          8. Whether the water use is continuous or intermittent.

13          9. Whether the person holds a permit under s. 283.31.

14          10. Other information required by the department by rule.

15          (c) The department shall maintain a registry containing the information  
16 provided under par. (b).

17          (cm) The department may consider domestic security concerns when  
18 determining whether information regarding locations of withdrawals and interbasin  
19 transfers contained in the registry under par. (c) may be released to the public.

20          (e) 1. Each person who makes a withdrawal from the waters of the state that  
21 averages 100,000 gallons per day or more in any 30-day period or transfers from the  
22 Great Lakes basin any amount and who has registered the withdrawal or interbasin  
23 transfer under par. (a) shall annually report to the department the monthly volumes  
24 of withdrawal, whether the person ever withdraws at least 1,000,000 gallons per day



1 for 30 consecutive days, and, if applicable, the volumes of interbasin transfer and,  
2 subject to par. (em), water loss from consumptive use.

3 2. In addition to the information required under subd. 1., the department may,  
4 by rule, create different reporting frequencies or require additional information from  
5 a person who registers a withdrawal, or interbasin transfer under par. (a) based upon  
6 the type or category of water use.

7 (em) If a person to whom par. (e) 1. applies provides any of the water that the  
8 person withdraws to a public water supply system, the person who operates the  
9 public water supply system, rather than the person who withdraws the water, shall  
10 annually report to the department the volume of water loss from the consumptive use  
11 of the water provided to the public water supply system.

12 (f) The department may require additional information under par. (b) 10. or (e)  
13 2. only if the information is necessary to effectuate this section.

14 **(3e) DETERMINING INITIAL INTERBASIN TRANSFER AMOUNTS.** (a) Before issuing an  
15 automatic approval under sub. (3m) (a) for an interbasin transfer to a person  
16 operating a public water supply system, the department shall determine the initial  
17 interbasin transfer amount for the interbasin transfer under par. (b).

18 (b) The department shall determine the initial interbasin transfer amount for  
19 a public water supply system to be the amount of water necessary to provide water  
20 for public water supply purposes in the area in at least part of which the public water  
21 supply system delivers water to customers before the compact's effective date that  
22 is all of the following:

23 1. Outside of the Great Lakes basin.

24 2. Within a sewer service territory that provides for return of wastewater to the  
25 Great Lakes basin and that is specified in the sewer service area provisions of an

1 areawide water quality management plan under s. 283.83 approved by the  
2 department before December 31, 2007.

3 (c) The department shall use the population and related service projections in  
4 the sewer service area provisions described in par. (b) 2. in making the determination  
5 under par. (b).

6 (d) Before issuing an automatic approval under sub. (3m) (b) for an interbasin  
7 transfer to a person who does not operate a public water supply system, the  
8 department shall determine the initial interbasin transfer amount for the interbasin  
9 transfer. The department shall determine the interbasin transfer amount using the  
10 process and standards that it uses under sub. (4e) to determine an initial withdrawal  
11 amount.

12 **(3m) AUTOMATIC APPROVAL FOR EXISTING INTERBASIN TRANSFERS.** (a) Before the  
13 compact's effective date, the department shall automatically issue an approval for  
14 an interbasin transfer that begins before the compact's effective date, to a person who  
15 operates a public water supply system that receives water from the interbasin  
16 transfer and that delivers water to customers in an area that is outside of the Great  
17 Lakes basin and that is within a sewer service territory that provides for return of  
18 wastewater to the Great Lakes basin as specified in the sewer service area provisions  
19 of an areawide water quality management plan under s. 283.83 approved by the  
20 department before December 31, 2007. The department may not issue an automatic  
21 approval under this subsection before the interbasin transfer begins. In the  
22 automatic approval, the department shall specify an interbasin transfer amount  
23 equal to the amount determined under sub. (3e) (b) and an interbasin transfer area  
24 that is the area described in sub. (3e) (b).

1 (b) Before the compact's effective date, the department shall automatically  
2 issue an approval for an interbasin transfer that begins before the effective date of  
3 this paragraph .... [revisor inserts date], and that is not for public water supply  
4 purposes to the person who makes the interbasin transfer. In the automatic  
5 approval, the department shall specify an interbasin transfer amount equal to the  
6 amount determined under sub. (3e) (d).

7 (4) NEW OR INCREASED INTERBASIN TRANSFERS. (a) *Prohibition.* Beginning on the  
8 effective date of this paragraph .... [revisor inserts date], all of the following apply:

9 1. No person may begin an interbasin transfer, other than an interbasin  
10 transfer for which the department is required to issue an automatic permit under  
11 sub. (3m) (a), unless the interbasin transfer is covered by an approval under par. (c),  
12 (d), or (e).

13 2. No person may increase an interbasin transfer over the interbasin transfer  
14 amount in an approval issued under this subsection unless the department modifies  
15 the approval under par. (c), (d), or (e) to increase the interbasin transfer amount.

16 3. No person may increase an interbasin transfer over the interbasin transfer  
17 amount in an approval issued under sub. (3m) (a) or expand the interbasin transfer  
18 area beyond the area specified in an approval under sub. (3m) (a) unless the  
19 department modifies the approval under par. (c), (d), or (e) to increase the interbasin  
20 transfer amount or to expand the interbasin transfer area.

21 4. No person may increase an interbasin transfer over the interbasin transfer  
22 amount in an approval issued under sub. (3m) (b).

23 (b) *Application.* 1. A person who proposes to begin an interbasin transfer,  
24 increase the amount of an interbasin transfer, or expand the interbasin transfer area

1 of an interbasin transfer covered by an approval issued under sub. (3m) (a) shall  
2 apply to the department for approval.

3 2. A person may apply under subd. 1. for approval of a new, increased, or  
4 expanded interbasin transfer under par. (c) or (e) only if the person operates a public  
5 water supply system that receives or would receive water from the new, increased,  
6 or expanded interbasin transfer.

7 3. Operators of 2 or more public water supply systems may submit a joint  
8 application under subd. 1. for a new, increased, or expanded interbasin transfer  
9 under par. (c) or (e).

10 4. A person who applies under subd. 1. shall provide information about the  
11 potential impacts of the interbasin transfer on the waters of the Great Lakes basin  
12 and water dependent natural resources and any other information required by the  
13 department by rule.

14 4m. If a person who applies under subd. 1. will not directly withdraw the water  
15 proposed to be transferred, the person shall identify any entities that may withdraw  
16 the water and provide evidence of support from each of those entities in the form of  
17 a letter or resolution.

18 4p. If the person who applies under subd. 1. will not directly return the water  
19 to the Great Lakes basin, the person shall identify any entities that may return the  
20 water and provide evidence of support from each of those entities in the form of a  
21 letter or resolution.

22 4s. If the proposal for which a person applies under subd. 1. is subject to the  
23 exception standard under par. (f), the person shall provide documentation of how the  
24 physical, chemical, and biological integrity of the receiving water under par. (f) 3. will  
25 be protected and sustained as required under ss. 30.12, 281.15, and 283.31,

1 considering the state of the receiving water before the proposal is implemented and  
2 considering potential adverse impacts due to changes in temperature and nutrient  
3 loadings. If the receiving water is a surface water body that is tributary to one of the  
4 Great Lakes, the person shall include a description of the flow of the receiving water  
5 before the proposal is implemented, considering both low and high flow conditions.

6 5. If the proposal for which a person applies under subd. 1. is subject to the  
7 exception standard under par. (f), the person shall provide an assessment of the  
8 individual impacts of the proposal for the purposes of par. (f) 5. The person may also  
9 include a cumulative impact assessment.

10 (bg) *Determinations.* 1. The department shall determine whether a proposal  
11 under par. (b) is subject to par. (c) or (e) as follows:

12 a. If the proposal is to provide a public water supply within a single city, village,  
13 or town, the proposal is subject to par. (c) or (e) based on the boundaries of that city,  
14 village, or town.

15 b. If the proposal is to provide a public water supply within more than one city,  
16 village, or town, any portion of the proposal that provides a public water supply  
17 within a straddling community is subject to par. (c) and any portion of the proposal  
18 that provides a public water supply within a community described in par. (e) 1.  
19 (intro.) is subject to par. (e).

20 2. For the purposes of applying the requirements in pars. (c), (e), and (f) to a  
21 proposal under par. (b), the department shall use, as appropriate, the planned  
22 service area of the public water supply system receiving water under the proposal.  
23 The planned service area is the service area of the system at the end of any planning  
24 period authorized by the department in the approved water supply service area plan  
25 under s. 281.348 that covers the public water supply system.

1           (c) *Straddling communities.* The department may approve a proposal under  
2     par. (b) to begin an interbasin transfer, increase an interbasin transfer, or expand an  
3     interbasin transfer area, to an area within a straddling community but outside the  
4     Great Lakes basin or outside the source watershed if the water transferred will be  
5     used solely for public water supply purposes in the straddling community and all of  
6     the following apply:

7           1. An amount of water equal to the amount of water withdrawn from the Great  
8     Lakes basin, less an allowance for consumptive use, will be returned to the source  
9     watershed.

10          2. No surface water or groundwater from outside the source watershed will be  
11     returned to the source watershed unless all of the following apply:

12           a. The returned water will be from a water supply or wastewater treatment  
13     system that combines water from inside and outside the Great Lakes basin.

14           b. The returned water will be treated to meet applicable permit requirements  
15     under s. 283.31 and to prevent the introduction of invasive species into the Great  
16     Lakes basin.

17           c. The proposal maximizes the amount of water withdrawn from the Great  
18     Lakes basin that will be returned to the source watershed and minimizes the amount  
19     of water from outside the Great Lakes basin that will be returned to the source  
20     watershed.

21           2m. The proposal is consistent with an approved water supply service area plan  
22     under s. 281.348 that covers the public water supply system.

23          3. If the proposal would result from a new withdrawal or an increase in a  
24     withdrawal that would average 100,000 gallons or more per day in any 90-day  
25     period, the proposal meets the exception standard under par. (f).

1           (d) *Intrabasin transfer.* 1. The department may approve a proposal under par.  
2           (b) for a new intrabasin transfer or an increase in an intrabasin transfer to which par.  
3           (c) does not apply that would average less than 100,000 gallons per day in every  
4           90–day period, if the proposal meets the applicable requirements under s. 30.18,  
5           281.34, or 281.41 or, if those sections do not apply, any requirements specified by the  
6           department by rule and, if the water will be used for public water supply purposes,  
7           the proposal is consistent with an approved water supply service area plan under s.  
8           281.348 that covers the public water supply system.

9           2. The department may approve a proposal under par. (b) for a new intrabasin  
10          transfer or an increase in or expansion of an intrabasin transfer to which par. (c) does  
11          not apply that would average more than 100,000 gallons per day in any 90–day  
12          period with a new water loss or an increase in water loss that would average less than  
13          5,000,000 gallons per day in every 90–day period, if all of the following apply:

14          a. The proposal meets the exception standard under par. (f), except that the  
15          water may be returned to a watershed within the Great Lakes basin other than the  
16          source watershed and par. (f) 3m. does not apply.

17          b. The applicant demonstrates that there is no feasible, cost–effective, and  
18          environmentally sound water supply alternative within the watershed to which the  
19          water will be transferred, including conservation of existing water supplies as  
20          determined under par. (g).

21          c. If the water will be used for public water supply purposes, the proposal is  
22          consistent with an approved water supply service area plan under s. 281.348 that  
23          covers the public water supply system.

24          3. The department may approve a proposal under par. (b) for a new intrabasin  
25          transfer or an increase in an intrabasin transfer to which par. (c) does not apply with

1 a new water loss or an increase in water loss that would average 5,000,000 gallons  
2 per day or more in any 90-day period, if all of the following apply:

3 a. The proposal meets the exception standard under par. (f).

4 b. The applicant demonstrates that there is no feasible, cost-effective, and  
5 environmentally sound water supply alternative within the watershed to which the  
6 water will be transferred, including conservation of existing water supplies as  
7 determined under par. (g).

8 c. If the water will be used for public water supply purposes, the proposal is  
9 consistent with an approved water supply service area plan under s. 281.348 that  
10 covers the public water supply system.

11 (e) *Straddling counties.* 1. The department may approve a proposal under par.  
12 (b) for a new interbasin transfer or an increase in an interbasin transfer if the water  
13 transferred will be used solely for public water supply purposes in a community  
14 within a straddling county or, if a community is partly within a straddling county and  
15 partly within a county that lies entirely outside the Great Lakes basin, the water  
16 transferred will be used solely for public water supply purposes in the portion of the  
17 community that is within the straddling county and all of the following apply:

18 a. The community is without adequate supplies of potable water.

19 b. The proposal meets the exception standard under par. (f).

20 c. The proposal maximizes the amount of water withdrawn from the Great  
21 Lakes basin that will be returned to the source watershed and minimizes the amount  
22 of water from outside the Great Lakes basin that will be returned to the source  
23 watershed.



1           d. There is no reasonable water supply alternative within the watershed in  
2           which the community is located, including conservation of existing water supplies  
3           as determined under par. (g).

4           e. The proposal will not endanger the integrity of the Great Lakes basin  
5           ecosystem based upon a determination that the proposal will have no significant  
6           adverse impact on the Great Lakes basin ecosystem.

7           em. The proposal is consistent with an approved water supply service area plan  
8           under s. 281.348 that covers the public water supply system.

9           2. In determining whether to approve a proposal under this paragraph, the  
10          department shall give substantive consideration to whether the applicant provides  
11          sufficient scientifically based evidence that the existing water supply is derived from  
12          groundwater that is hydrologically interconnected to waters of the Great Lakes  
13          basin. The department may not use a lack of hydrological connection to the waters  
14          of the Great Lakes basin as a reason to disapprove a proposal.

15          (f) *Exception standard.* A proposal to which par. (fm) does not apply meets the  
16          exception standard if subds. 1. to 7. apply to the proposal. A proposal to which par.  
17          (fm) applies meets the exception standard if the department considers, under par.  
18          (fm), whether:

19               1. The need for the proposed interbasin transfer cannot reasonably be avoided  
20               through the efficient use and conservation of existing water supplies as determined  
21               under par. (g).

22               2. The interbasin transfer is limited to quantities that are reasonable for the  
23               purposes for which the interbasin transfer is proposed.

1           3. An amount of water equal to the amount of water withdrawn from the Great  
2       Lakes basin will be returned to the source watershed, less an allowance for  
3       consumptive use.

4           3m. The place at which the water is returned to the source watershed is as close  
5       as practicable to the place at which the water is withdrawn, unless the applicant  
6       demonstrates that returning the water at that place is one of the following:

- 7           a. Not cost-effective.  
8           b. Not environmentally sound.  
9           c. Not in the interest of public health.

10          4. No water from outside the Great Lakes basin will be returned to the source  
11       watershed unless all of the following apply:

12           a. The returned water is from a water supply or wastewater treatment system  
13       that combines water from inside and outside the Great Lakes basin.

14           b. The returned water will be treated to meet applicable permit requirements  
15       under s. 283.31 and to prevent the introduction of invasive species into the Great  
16       Lakes basin and the department has approved the permit under s. 283.31.

17           c. If the water is returned through a structure on the bed of a navigable water,  
18       the structure is designed and will be operated to meet the applicable permit  
19       requirements under s. 30.12 and the department has approved the permit under s.  
20       30.12.

21          4m. If water will be returned to the source watershed through a stream  
22       tributary to one of the Great Lakes, the physical, chemical, and biological integrity  
23       of the receiving water under subd. 3. will be protected and sustained as required  
24       under ss. 30.12, 281.15, and 283.31, considering the state of the receiving water  
25       before the proposal is implemented and considering both low and high flow

1 conditions and potential adverse impacts due to changes in temperature and  
2 nutrient loadings.

3 5. The interbasin transfer will result in no significant adverse individual  
4 impacts or cumulative impacts to the quantity or quality of the waters of the Great  
5 Lakes basin or to water dependent natural resources, including cumulative impacts  
6 that might result due to the proposed interbasin transfer, based upon a  
7 determination that the proposed interbasin transfer will not have any significant  
8 adverse impacts on the sustainable management of the waters of the Great Lakes  
9 basin.

10 6. The applicant commits to implementing the applicable water conservation  
11 measures under sub. (8) (d) that are environmentally sound and economically  
12 feasible for the applicant.

13 7. The interbasin transfer will be in compliance with all applicable local, state,  
14 and federal laws and interstate and international agreements, including the  
15 Boundary Waters Treaty of 1909.

16 (fm) *Approval of certain applications.* The department shall determine  
17 whether to grant an approval under par. (c) or (e) of an application under par. (b) 1.  
18 through the water supply service area planning process under s. 281.348,  
19 considering the items in par. (f) 1. to 7. as factors in the cost-effectiveness analysis  
20 under s. 281.348 (3) (d) 1.

21 (g) *Conservation and efficient use of existing water supplies.* The department  
22 shall promulgate rules specifying the requirements for an applicant for a new,  
23 increased, or expanded interbasin transfer subject to par. (f) to demonstrate the  
24 efficient use and conservation of existing water supplies for the purposes of pars. (d)  
25 2. b. and 3. b., (e) 1. d., and (f) 1., including requiring the applicant to document the

1 water conservation planning and analysis used to identify the water conservation  
2 and efficiency measures that the applicant determined were feasible.

3 (i) *Interbasin transfer amount.* In an approval issued under this subsection or  
4 a modification granted under this subsection to increase the amount of an interbasin  
5 transfer, the department shall specify an interbasin transfer amount equal to the  
6 quantity of water that is reasonable for the purposes for which the interbasin  
7 transfer is proposed.

8 **(4e)** DETERMINING INITIAL WITHDRAWAL AMOUNTS FOR WITHDRAWALS FROM THE  
9 GREAT LAKES BASIN. (a) Before issuing automatic notice of coverage under a general  
10 permit under sub. (4s) or an automatic individual permit under sub. (5) (c) for a  
11 withdrawal from the Great Lakes basin for which the department is required to issue  
12 automatic notice of coverage under a general permit or an automatic individual  
13 permit, the department shall determine the initial withdrawal amount for the  
14 withdrawal under this subsection.

15 (b) 1. Except as provided in subds. 2. and 3e. and par. (f), the department shall  
16 estimate the initial withdrawal amount for a withdrawal based on the maximum  
17 hydraulic capacity of the most restrictive component in the water supply system used  
18 for the withdrawal as of the date that the department makes the estimate, based on  
19 information available to the department.

20 2. Except as provided in subd. 3e., if the department has issued an approval  
21 under s. 30.12, 30.18, 281.34, or 281.41, or s. 281.17, 2001 stats., that is required for  
22 a withdrawal and the approval contains a limit on the amount of water that may be  
23 withdrawn, the department shall provide an estimate of the initial withdrawal  
24 amount equal to the limit in the approval.

1           3e. If water is withdrawn through more than one water supply system to serve  
2           a facility, the department shall determine the amount under subd. 1. for each of the  
3           water supply systems to which subd. 2. does not apply and shall determine the  
4           amount under subd. 2. for each of the water supply systems to which subd. 2. applies  
5           and shall provide an estimate of the initial withdrawal amount that is equal to the  
6           sum of the amounts determined for each of the water supply systems.

7           (c) The department shall provide the estimate under par. (b) for a withdrawal  
8           to the person making the withdrawal.

9           (d) After receiving an estimate under par. (c), a person making a withdrawal  
10          may provide the department with information relating to any of the following:

11           1. The components of the water supply system used for the withdrawal.

12           2. Seasonal variations in the amount of water supplied by the water supply  
13          system.

14           3. Plans for expanding the capacity of the water supply system submitted to  
15          the department no later than 2 years after the effective date of this subdivision ....  
16          [revisor inserts date].

17           4. Amounts withdrawn during the 5 years before the year in which the person  
18          submits the information.

19           5. Successful water conservation efforts by persons using the water that is  
20          withdrawn.

21           6. Water loss from consumptive uses of similar types of users compared to the  
22          water loss from consumptive use of persons using the water that is withdrawn.

23           7. Other relevant information.

24           (e) Except as provided in par. (f), the department shall determine the initial  
25          withdrawal amount for a withdrawal based on the estimate under par. (b) and the

1 department's evaluation of any information provided under par. (d). The department  
2 may not consider information provided by any other person.

3 (f) For a public water supply system that, on the effective date of this paragraph  
4 .... [revisor inserts date], has approval under s. 281.41 to provide water from the  
5 Great Lakes basin for public water supply purposes outside of the Great Lakes basin  
6 and approval under s. 283.31 to return the associated wastewater to the Great Lakes  
7 basin, the department shall determine the initial withdrawal amount to be the  
8 amount of water necessary to provide water for public water supply purposes in the  
9 service territory specified in the sewer service area provisions of the areawide water  
10 quality management plan under s. 283.83 approved by the department before  
11 December 31, 2007, based on the population and related service projections in those  
12 provisions.

13 (g) The department's determination of an initial withdrawal amount under par.  
14 (e) or (f) is not subject to administrative review under ch. 227 except at the request  
15 of the person making the withdrawal.

16 (h) If 2 or more public water supply systems merge after the department  
17 determines their initial withdrawal amounts under par. (e) and before the  
18 department issues the initial individual permits under sub. (5) (c) for the systems,  
19 the initial withdrawal amount for the new system is the sum of the amounts  
20 determined under par. (e) for the individual systems.

21 **(4m)** WATER USE PERMITS REQUIRED IN THE GREAT LAKES BASIN. Beginning on the  
22 first day of the 84th month beginning after the effective date of this subsection ....  
23 [revisor inserts date], except as provided in sub. (4s) (bm), a person may not make  
24 a withdrawal from the Great Lakes basin that averages 100,000 gallons per day or

1 more in any 30-day period unless the withdrawal is covered under a general permit  
2 under sub. (4s) or an individual permit under sub. (5).

3 **(4s) GENERAL WATER USE PERMITS FOR GREAT LAKES BASIN.** (a) *Department to*  
4 *issue.* The department shall issue one or more general permits to cover withdrawals  
5 from the Great Lakes basin that average 100,000 gallons per day or more in any  
6 30-day period but that do not equal at least 1,000,000 gallons per day for any 30  
7 consecutive days. The department shall include all of the following in a general  
8 permit:

9 1. Reference to the database of withdrawal amounts under par. (i).

10 2. Requirements for estimating the amount withdrawn, monitoring the  
11 withdrawal, if necessary, and reporting the results of the estimating and monitoring,  
12 as provided in rules promulgated by the department.

13 3. Requirements for water conservation, as provided in rules promulgated by  
14 the department under sub. (8) (d).

15 (am) *Term of general permit.* The term of a general permit issued under par.  
16 (a) is 25 years.

17 (b) *General requirement.* Beginning on the date under sub. (4m), a person who  
18 does not hold an individual permit under sub. (5) may not make a withdrawal that  
19 averages 100,000 gallons per day or more in any 30-day period, but that does not  
20 equal at least 1,000,000 gallons per day for any 30 consecutive days, unless the  
21 withdrawal is covered under a general permit, except as provided in par. (bm). A  
22 person to whom the department has issued a notice of coverage under a general  
23 permit shall comply with the general permit.

1           (bm) *Waiver.* The department may waive the requirement to obtain coverage  
2 under a general permit for a person making a withdrawal that is covered by a permit  
3 under s. 30.18 (2) (a).

4           (c) *Automatic notice of coverage for existing withdrawals.* The department shall  
5 automatically issue a notice of coverage under a general permit to a person who  
6 makes a withdrawal from the Great Lakes basin and who reports under sub. (3) (e)  
7 before the date under sub. (4m), if the withdrawal averages 100,000 gallons per day  
8 or more in any 30-day period but does not equal at least 1,000,000 gallons per day  
9 for any 30 consecutive days. If necessary, the department may request additional  
10 information before issuing a notice under this paragraph. The department shall  
11 issue a notice under this paragraph no later than the date under sub. (4m). The  
12 department may promulgate a rule under which the department issues automatic  
13 notices of coverage under a general permit on a staggered schedule before the date  
14 under sub. (4m). In the notice provided under this paragraph for a withdrawal, the  
15 department shall specify a withdrawal amount equal to the initial withdrawal  
16 amount determined under sub. (4e) for the withdrawal.

17           (d) *Coverage under general permit for new or increased withdrawals.* 1. A  
18 person who proposes to begin a withdrawal from the Great Lakes basin that will  
19 average 100,000 gallons per day or more in any 30-day period, or to increase an  
20 existing withdrawal so that it will average 100,000 gallons per day or more in any  
21 30-day period, after the first day of the 36th month beginning after the effective date  
22 of this subdivision .... [revisor inserts date], and to whom the department is not  
23 required to issue automatic notice of coverage under a general permit under par. (c),  
24 but who does not propose to withdraw at least 1,000,000 gallons per day for any 30  
25 consecutive days, shall apply to the department for coverage under a general permit.



1 In the application, the person shall provide the information required by the  
2 department by rule.

3 2. After receiving an application under subd. 1., the department shall, within  
4 the time limit established by the department by rule, determine whether the  
5 withdrawal qualifies for coverage under a general permit or notify the applicant of  
6 any additional information needed to determine whether the withdrawal qualifies  
7 for coverage under a general permit.

8 3. Except as provided in subd. 3m., if the department determines that a  
9 withdrawal qualifies for coverage under a general permit and the department has  
10 issued any approvals that are required for the withdrawal under s. 30.12, 30.18,  
11 281.34, or 281.41 or s. 281.17, 2001 stats., the department shall issue a notice of  
12 coverage. In the notice, the department shall specify a withdrawal amount that is,  
13 except as provided in subd. 3e., equal to the smallest of the following amounts:

14 a. The maximum hydraulic capacity of the most restrictive component of the  
15 water supply system used for the withdrawal for which the person has approval  
16 under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., or, if an approval  
17 under one of those provisions is not required for the most restrictive component of  
18 the water supply system, the maximum hydraulic capacity of the most restrictive  
19 component that the person proposes to use in the water supply system.

20 b. If an approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001  
21 stats., specifies a maximum amount of water that may be withdrawn, that amount.

22 3e. If water is withdrawn through more than one water supply system to serve  
23 a facility, the department shall determine the smallest amounts under subd. 3. a. or

24 b. for each of the water supply systems and shall specify a withdrawal amount that  
25 is equal to the sum of the amounts determined for each of the water supply systems.

1           3m. a. The department may not approve an application under subd. 1. for a  
2       withdrawal for the purpose of providing water to a public water supply system that  
3       is covered by an approved water supply service area plan under s. 281.348, unless  
4       the withdrawal is consistent with the water supply service area plan.

5           b. If the department approves an application under subd. 1. for a withdrawal  
6       for the purpose of providing water to a public water supply system that is covered by  
7       an approved water supply service area plan under s. 281.348, the department shall  
8       issue a notice of coverage. In the notice of coverage the department shall specify a  
9       withdrawal amount that is equal to the withdrawal amount in the water supply  
10      service area plan.

11          4. If the department determines that a withdrawal does not qualify for coverage  
12      under a general permit, the department shall notify the applicant in writing of the  
13      reason for that determination.

14          (dm) *Requiring individual permit.* The department may require a person who  
15      is making or proposes to make a withdrawal that averages 100,000 gallons per day  
16      or more in any 30-day period, but that does not equal at least 1,000,000 gallons per  
17      day for any 30 consecutive days, to obtain an individual permit under sub. (5) if the  
18      withdrawal is located in a groundwater protection area, as defined in s. 281.34 (1)  
19      (a), or a groundwater management area designated under s. 281.34 (9).

20          (e) *Increase in withdrawal amount.* 1. Before the compact's effective date, if  
21      a person making a withdrawal that is covered under a general permit proposes to  
22      increase the amount of the withdrawal over the withdrawal amount specified in the  
23      database under par. (i) for the withdrawal, but does not propose to withdraw at least  
24      1,000,000 gallons per day for any 30 consecutive days, the person shall apply to the  
25      department for a modification of the withdrawal amount.

1           3. Except as provided in subd. 3m., if the department has issued any approvals  
2           that are required for modifying the withdrawal under s. 30.12, 30.18, 281.34, or  
3           281.41 or s. 281.17, 2001 stats., the department shall modify the withdrawal amount  
4           to an amount that is, except as provided in subd. 3e., equal to the smallest of the  
5           following amounts:

6           a. The maximum hydraulic capacity of the most restrictive component of the  
7           water supply system used for the withdrawal for which the person has approval  
8           under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., or, if an approval  
9           under one of those provisions is not required for the most restrictive component of  
10          the water supply system, the maximum hydraulic capacity of the most restrictive  
11          component that the person proposes to use in the water supply system.

12          b. If an approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001  
13          stats., specifies a maximum amount of water that may be withdrawn, that amount.

14          3e. If water is withdrawn through more than one water supply system to serve  
15          a facility, the department shall determine the smallest amount under subd. 3. a. or  
16          b. for each of the water supply systems and shall specify a withdrawal amount that  
17          is equal to the sum of the amounts determined for each of the water supply systems.

18          3m. a. The department may not approve an application under subd. 1. for a  
19          withdrawal for the purpose of providing water to a public water supply system that  
20          is covered by an approved water supply service area plan under s. 281.348, unless  
21          the withdrawal is consistent with the water supply service area plan.

22          b. If the department approves an application under subd. 1. for a withdrawal  
23          for the purpose of providing water to a public water supply system that is covered by  
24          an approved water supply service area plan under s. 281.348, the department shall

1 modify the withdrawal amount to an amount equal to the withdrawal amount in the  
2 water supply service area plan.

3 (f) *Term of coverage.* Coverage under a general permit ends on the date that  
4 the term of the general permit under par. (am) ends.

5 (g) *Redetermination.* A person to whom the department has issued a notice of  
6 coverage under a general permit shall apply to the department for redetermination  
7 of coverage under a new general permit at least 180 days before the end of the term  
8 of the current general permit if the person intends to continue to withdraw from the  
9 Great Lakes basin an average of 100,000 gallons per day or more in any 30-day  
10 period but does not intend to withdraw at least 1,000,000 gallons per day for any 30  
11 consecutive days. If the person is in substantial compliance with the current general  
12 permit and the withdrawal qualifies for coverage under the new general permit, the  
13 department shall issue a notice of coverage under the new general permit.

14 (h) *Suspension and revocation.* After an opportunity for a hearing, the  
15 department may suspend or revoke coverage under a general permit issued under  
16 this subsection for cause, including obtaining coverage under the permit by  
17 misrepresentation or failure to disclose material facts or substantially violating the  
18 terms of the permit.

19 (i) *Database.* The department shall maintain a database of the withdrawal  
20 amounts for all withdrawals that are covered under general permits under this  
21 subsection.

22 (5) INDIVIDUAL WATER USE PERMITS FOR GREAT LAKES BASIN. (a) *Requirement.*  
23 Beginning on the date under sub. (4m), a person may not make a withdrawal from  
24 the Great Lakes basin that equals at least 1,000,000 gallons per day for any 30  
25 consecutive days unless the withdrawal is covered by an individual permit. A person

1 to whom the department has issued an individual permit shall comply with the  
2 individual permit.

3 (b) *Content of individual permits.* The department shall include all of the  
4 following in an individual permit:

5 1. A withdrawal amount as determined under par. (d) 3., 3e., or 3m. or (e) 3.,  
6 3e., or 3m. or sub. (4e).

7 3. Requirements for estimating the amount withdrawn, monitoring the  
8 withdrawal, if necessary, and reporting the results of the estimating and monitoring,  
9 as provided in rules promulgated by the department.

10 4. Requirements for water conservation, as provided in rules promulgated by  
11 the department under sub. (8) (d).

12 5. Limits on the location and dates or seasons of the withdrawal and on the  
13 allowable uses of the water, as provided in rules promulgated by the department.

14 6. Conditions on any interbasin transfer under sub. (4) made by the person  
15 making the withdrawal.

16 6m. If s. 281.35 (4) applies to the withdrawal, the matters under s. 281.35 (6)  
17 (a).

18 (c) *Automatic issuance of individual permits for existing withdrawals.* The  
19 department shall automatically issue an individual permit to a person who makes  
20 a withdrawal from the Great Lakes basin and who reports under sub. (3) (e) before  
21 the date under sub. (4m), if the withdrawal equals at least 1,000,000 gallons per day  
22 for any 30 consecutive days. If necessary, the department may request additional  
23 information before issuing a permit under this paragraph. The department shall  
24 issue a permit under this paragraph no later than the date under sub. (4m). In the  
25 permit, the department shall specify a withdrawal amount equal to the initial

1 withdrawal amount determined under sub. (4e) for the withdrawal. The department  
2 may promulgate a rule under which the department issues automatic individual  
3 permits on a staggered schedule before the date under sub. (4m).

4 (d) *Individual permit for new or increased unpermitted withdrawals.* 1. A  
5 person who proposes to begin a withdrawal from the Great Lakes basin that will  
6 equal at least 1,000,000 gallons per day for any 30 consecutive days or to modify an  
7 existing withdrawal so that it will equal at least 1,000,000 gallons per day for any  
8 30 consecutive days, after the first day of the 36th month beginning after the effective  
9 date of this subdivision .... [revisor inserts date], and to whom the department is not  
10 required to issue an automatic individual permit under par. (c), shall apply to the  
11 department for an individual permit. In the application, the person shall provide the  
12 information required by the department by rule.

13 2. After receiving an application under subd. 1., the department shall, within  
14 the time limit established by the department by rule, determine whether to approve  
15 the application or notify the applicant of any additional information needed to  
16 determine whether to approve the application.

17 3. Except as provided in subd. 3m., if the department approves an application  
18 under subd. 1. and the department has issued any approvals that are required for  
19 the withdrawal under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., the  
20 department shall issue an individual permit. In the permit, the department shall  
21 specify a withdrawal amount that is, except as provided in subd. 3e., equal to the  
22 smallest of the following amounts:

23 a. The maximum hydraulic capacity of the most restrictive component of the  
24 water supply system used for the withdrawal for which the person has approval  
25 under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., or, if an approval

1 under one of those provisions is not required for the most restrictive component of  
2 the water supply system, the maximum hydraulic capacity of the most restrictive  
3 component that the person proposes to use in the water supply system.

4 b. If an approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001  
5 stats., specifies a maximum amount of water that may be withdrawn, that amount.

6 3e. If water is withdrawn through more than one water supply system to serve  
7 a facility, the department shall determine the smaller of the amounts under subd. 3.  
8 a. or b. for each of the water supply systems and shall specify a withdrawal amount  
9 that is equal to the sum of the amounts determined for each of the water supply  
10 systems.

11 3m. a. The department may not approve an application under subd. 1. for a  
12 withdrawal for the purpose of providing water to a public water supply system that  
13 is covered by an approved water supply service area plan under s. 281.348, unless  
14 the withdrawal is consistent with the water supply service area plan.

15 b. If the department approves an application under subd. 1. for a withdrawal  
16 for the purpose of providing water to a public water supply system that is covered by  
17 an approved water supply service area plan under s. 281.348, the department shall  
18 issue an individual permit. In the permit, the department shall specify a withdrawal  
19 amount that is equal to the withdrawal amount in the water supply service area  
20 plan.

21 4. If the department disapproves an application under subd. 1., the department  
22 shall notify the applicant in writing of the reason for the disapproval.

23 (e) *Increase in withdrawal amount.* 1. Before the compact's effective date, if  
24 a person making a withdrawal that is covered under an individual permit proposes  
25 to increase the amount of the withdrawal over the withdrawal amount specified in

1 the permit, the person shall apply to the department for a modification of the permit  
2 to increase the withdrawal amount.

3 3. Except as provided in subd. 3m., if the department has issued any approvals  
4 that are required for modifying the withdrawal under s. 30.12, 30.18, 281.34, or  
5 281.41 or s. 281.17, 2001 stats., the department shall modify the withdrawal amount  
6 to an amount that is, except as provided in subd. 3e., equal to the smallest of the  
7 following amounts:

8 a. The maximum hydraulic capacity of the most restrictive component of the  
9 water supply system used for the withdrawal for which the person has approval  
10 under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., or, if an approval  
11 under one of those provisions is not required for the most restrictive component of  
12 the water supply system, the maximum hydraulic capacity of the most restrictive  
13 component that the person proposes to use in the water supply system.

14 b. If an approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001  
15 stats., specifies a maximum amount of water that may be withdrawn, that amount.

16 3e. If water is withdrawn through more than one water supply system to serve  
17 a facility, the department shall determine the smallest amount under subd. 3. a. or  
18 b. for each of the water supply systems and shall specify a withdrawal amount that  
19 is equal to the sum of the amounts determined for each of the water supply systems.

20 3m. a. The department may not approve an application under subd. 1. for a  
21 withdrawal for the purpose of providing water to a public water supply system that  
22 is covered by an approved water supply service area plan under s. 281.348, unless  
23 the withdrawal is consistent with the water supply service area plan.

24 b. If the department approves an application under subd. 1. for a withdrawal  
25 for the purpose of providing water to a public water supply system that is covered by



1 an approved water supply service area plan under s. 281.348, the department shall  
2 modify the withdrawal amount to an amount equal to the withdrawal amount in the  
3 water supply service area plan.

4 (f) *Term of coverage.* The term of an individual permit is 10 years.

5 (g) *Reissuance.* A person to whom the department has issued an individual  
6 permit under this subsection shall apply to the department for reissuance of the  
7 individual permit at least 180 days before the end of the term of the permit if the  
8 person intends to continue to withdraw from the Great Lakes basin at least 1,000,000  
9 gallons per day for any 30 consecutive days. If the department determines that the  
10 person is in substantial compliance with the individual permit and that the  
11 withdrawal continues to qualify for an individual permit, the department shall  
12 reissue the permit.

13 (h) *Suspension and revocation.* After an opportunity for a hearing, the  
14 department may suspend or revoke a permit issued under this subsection for cause,  
15 including obtaining the permit by misrepresentation or failure to disclose material  
16 facts or substantially violating the terms of the permit.

17 (i) *Transfer of control.* A permit is not transferable to any person except after  
18 notice to the department. A person who proposes to assume control over a permitted  
19 withdrawal shall file with the department a permit application and a statement of  
20 acceptance of the permit. The department may require modification or revocation  
21 and reissuance of the permit to change the name of the permittee.

22 **(5m)** INTERIM APPROVAL. If a person making a withdrawal that averages  
23 100,000 gallons per day or more in any 30-day period registers the withdrawal under  
24 sub. (3) (a) 1. and reports as required under sub. (3) (e) and the department does not  
25 automatically issue a notice of coverage under sub. (4s) (c) or an individual permit

1 under sub. (5) (c) for the withdrawal before the compact's effective date, the  
2 registration of the withdrawal constitutes an approval for the purposes of s. 281.343  
3 (4t) (b) 1. The withdrawal amount is the total amount reported under sub. (3) (b) 4m.,  
4 except that if there is a limit in an approval under s. 30.12, 30.18, 281.34, or 281.41  
5 or s. 281.17, 2001 stats., on the amount of water that may be withdrawn by any water  
6 supply system used for the withdrawal and that limit is less than the amount  
7 reported under sub. (3) (b) 4m. for that water supply system, the withdrawal amount  
8 is the total amount reported under sub. (3) (b) 4m. reduced by the difference between  
9 the reported amount for that water supply system and the limit in the approval.

10 **(7) EXEMPTIONS.** Subsections (3) to (5) do not apply to withdrawals or interbasin  
11 transfers for any of the following purposes:

12 (a) To supply vehicles, including vessels and aircraft, for the needs of the  
13 persons or animals being transported or for ballast or other needs related to the  
14 operation of the vehicles.

15 (b) To use in a noncommercial project that lasts no more than 3 months for fire  
16 fighting, humanitarian, or emergency response purposes.

17 **(7m) EMERGENCY ORDER.** The department may, without a prior hearing, order  
18 a person to whom the department has issued an individual permit or notice of  
19 coverage under a general permit under this section to immediately stop a withdrawal  
20 if the department determines that there is a danger of imminent harm to the public  
21 health, safety, or welfare, to the environment, or to the water resources or related  
22 land resources of this state. The order shall specify the date on which the withdrawal  
23 must be stopped and the date, if any, on which it may be resumed. The order shall  
24 notify the person that the person may request a contested case hearing under ch. 227.

1 The hearing shall be held as soon as practicable after receipt of a request for a  
2 hearing. An emergency order remains in effect pending the result of the hearing.

3 **(8) STATEWIDE WATER CONSERVATION AND EFFICIENCY.** (a) *Goals and objectives.*

4 The department shall specify water conservation and efficiency goals and objectives  
5 for the waters of the state. The department shall specify goals and objectives for the  
6 waters of the Great Lakes basin that are consistent with the goals under s. 281.343  
7 (4b) (a) and the objectives identified by the regional body under Article 304 (1) of the  
8 Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement.  
9 In specifying these goals and objectives, the department shall consult with the  
10 department of commerce and the public service commission.

11 (b) *Statewide program.* In cooperation with the department of commerce and  
12 the public service commission, the department shall develop and implement a  
13 statewide water conservation and efficiency program that includes all of the  
14 following:

15 1. Promotion of environmentally sound and economically feasible water  
16 conservation measures through a voluntary statewide program.

17 1m. Mandatory and voluntary conservation and efficiency measures for the  
18 waters of the Great Lakes basin that are necessary to implement subs. (4), (4s), and  
19 (5) and s. 281.348.

20 2. Water conservation and efficiency measures that the public service  
21 commission requires or authorizes a water utility to implement under ch. 196.

22 3. Water conservation and efficiency measures that the department of  
23 commerce requires or authorizes to be implemented under chs. 101 and 145.

24 (d) *Water conservation and efficiency measures.* The department shall  
25 promulgate rules specifying water conservation and efficiency measures for the

1 purposes of implementing par. (b). In the rules, the department may not require  
2 retrofitting of existing fixtures, appliances, or equipment. In specifying the  
3 measures, the department shall consider the results of any pilot water conservation  
4 program conducted by the department in cooperation with the regional body.

5 (9) PUBLIC PARTICIPATION. (b) *Public Notice*. 1. The department shall, by rule,  
6 create procedures for circulating to interested and potentially interested members  
7 of the public notices of each complete application that the department receives under  
8 sub. (4). The department shall include, in the rule, at least the following procedures:

9 a. Publication of the notice as a class 1 notice under ch. 985.

10 b. Mailing of the notice to any person, group, local governmental unit, or state  
11 agency upon request.

12 2. The department shall establish the form and content of a public notice by  
13 rule. The department shall include in every public notice concerning an application  
14 under sub. (4) at least the following information:

15 a. The name and address of each applicant.

16 b. A brief description of the proposal for which the application is made under  
17 sub. (4), including the amount of the proposed interbasin transfer.

18 c. A brief description of the procedures for the formulation of final  
19 determinations on applications, including the 30-day comment period required  
20 under par. (c).

21 (c) *Public comment*. The department shall receive public comments on a  
22 proposal for which it receives an application under sub. (4) for a 30-day period  
23 beginning when the department gives notice under par. (b) 1. The department shall  
24 retain all written comments submitted during the comment period and shall  
25 consider the comments in making its decisions on the application.

1           (d) *Public hearing.* 1. The department shall provide an opportunity for any  
2 interested person or group of persons, any affected local governmental unit, or any  
3 state agency to request a public hearing with respect to a proposal for which the  
4 department receives an application under sub. (4). A request for a public hearing  
5 shall be filed with the department within 30 days after the department gives notice  
6 under par. (b). The party filing a request for a public hearing shall indicate the  
7 interest of the party and the reasons why a hearing is warranted. The department  
8 shall hold a public hearing on a proposal for which the department receives an  
9 application under sub. (4) if the department determines that there is a significant  
10 public interest in holding a hearing.

11           2. The department shall promulgate, by rule, procedures for the conduct of  
12 public hearings held under this paragraph. A hearing held under this paragraph is  
13 not a contested case hearing under ch. 227.

14           3. The department shall circulate public notice of any hearing held under this  
15 paragraph in the manner provided under par. (b) 1.

16           (e) *Public access to information.* Any record or other information provided to  
17 or obtained by the department regarding a proposal for which an application under  
18 sub. (4) is received is a public record as provided in subch. II of ch. 19. The  
19 department shall make available to and provide facilities for the public to inspect and  
20 copy any records or other information provided to or obtained by the department  
21 regarding a proposal for which an application for a new or increased interbasin  
22 transfer under sub. (4) is received, except that any record or other information  
23 provided to the department may be treated as confidential upon a showing to the  
24 secretary that the record or information is entitled to protection as a trade secret, as  
25 defined in s. 134.90 (1) (c), or upon a determination by the department that domestic

1 security concerns warrant confidential treatment. Nothing in this subsection  
2 prevents the use of any confidential records or information obtained by the  
3 department in the administration of this section in compiling or publishing general  
4 analyses or summaries, if the analyses or summaries do not identify a specific owner  
5 or operator.

6 (11) WATER USE REPORT. Beginning no later than 8 years after the effective date  
7 of this subsection .... [revisor inserts date], and every 5 years thereafter, the  
8 department, using water use data reported under this section, shall publish a water  
9 use report to summarize water usage, identify related trends, identify areas of future  
10 water usage concerns, and recommend future actions to promote sustainable water  
11 use. The department shall also include in the report water resource information  
12 derived from reporting and data accumulation requirements under other water  
13 regulatory laws.

14 (13m) EXCEEDANCES. It is not a violation of this section to withdraw an amount  
15 of water that exceeds the withdrawal amount specified in a permit issued under sub.  
16 (5) or in the database under sub. (4s) (i).

17 (14) PENALTIES. (a) Any person who violates this section or any rule  
18 promulgated or approval issued under this section shall forfeit not less than \$10 nor  
19 more than \$10,000 for each violation. Each day of continued violation is a separate  
20 offense.

21 (c) In addition to the penalties under par. (a), the court may order the defendant  
22 to abate any nuisance, restore a natural resource, or take, or refrain from taking, any  
23 other action as necessary to eliminate or minimize any environmental damage  
24 caused by the violation.

25 (15) SUNSET. This section does not apply after the compact's effective date.